

DEPARTMENT OF INSURANCE**Legal Division, Compliance Bureau**

45 Fremont Street, 21st Floor
San Francisco, CA 94105



**NOTICE OF PROPOSED EMERGENCY REGULATIONS
PURSUANT TO CALIFORNIA INSURANCE CODE SECTION 12921.7**

ER-2007-00001

February 13, 2007

CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM

**Rates for Liability, Uninsured Motorists and Medical Payment Coverages for
Merced, Monterey, Santa Barbara, Sonoma, Tulare and Ventura Counties**

California Insurance Commissioner Steve Poizner hereby provides notice, pursuant to California Insurance Code Section 12921.7, that he will propose to the Office of Administrative Law the amendment of the California Automobile Insurance Low Cost Program Plan of Operations, referenced in Title 10, Chapter 5, Subchapter 3, Section 2498.6 of the California Code of Regulations, on an emergency basis pursuant to California Government Code Section 11346.1(b).

This Notice contains a description of the problem and the necessity for the regulation, an explanation of the justification for the adoption of the regulation on an emergency basis and a copy of the proposed regulation.

This Notice is provided to every person, group, and association who has previously filed a request for notice of regulatory action with the Commissioner. Copies of the Notice are available at the Department of Insurance, 45 Fremont Street, 21st Floor, San Francisco, California, 94105 and on the Department's web site at www.insurance.ca.gov.

The proposed regulation will be submitted to the Office of Administrative Law together with the rulemaking file not less than five (5) working days after the mailing of this Notice, as required by California Insurance Code Section 12921.7. Questions regarding this Notice should be directed to:

California Department of Insurance
Legal Division, Compliance Bureau
Attn: Mary Ann Shulman, Senior Staff Counsel
45 Fremont Street, 21st Floor
San Francisco, California 94105
(415) 538-4133

DESCRIPTION OF PROBLEM AND NECESSITY FOR REGULATION

Legislation involving the California Low Cost Automobile Insurance program, Stats. 2005, chapter 435 (SB 20, Escutia), was approved by the Governor on September 30, 2005. The legislation extended the program to Alameda, Fresno, Orange, Riverside, San Bernardino and San Diego counties, commencing on April 1, 2006. The bill further authorized expansion of the program to all counties in California at the discretion of the commissioner, subject to specified procedures. Following the specified procedures, the commissioner expanded the program to Contra Costa, Imperial, Kern, Sacramento, San Joaquin, San Mateo, Santa Clara, and Stanislaus counties, effective June 1, 2006.

In exercising his discretion to further expand the program, the legislation specifies that the commissioner make an initial determination of need, hold a public meeting in each county to discuss the need and desirability for such a program, and make a final determination of need within 30 days after the public meeting. The legislation provides that, in making the determination of need for each county, the commissioner consider the number or percentage of uninsured motorists within the county, the number or percentage of low income residents within the county, and the availability of affordable automobile insurance in the voluntary market.

The legislation does not specify a rate, but authorizes the Commissioner to adopt regulations establishing a rate, in consultation with the California Automobile Assigned Risk Plan (CAARP), in order to implement the expansion of the program to these counties, as emergency regulations. Previous legislation mandated the availability of optional coverages of uninsured motorists and medical payments to policyholders at additional premium.

Accordingly, on September 15, 2006, the commissioner made an initial determination of need to further expand the program to Merced, Monterey, Santa Barbara, Sonoma, Tulare, and Ventura counties. Subsequently, the commissioner held public forums on September 20, 2006 in Monterey county, (Salinas), on September 29, 2006 in Sonoma county (Santa Rosa), on September 30, 2006 in Santa Barbara county (city of Santa Barbara), on October 4, 2006 in Ventura county (city of Ventura), and on January 23, 2007 in the counties of Tulare and Merced (cities of Visalia and Merced) to discuss the need and desirability of the program.

Based upon a consideration of the number or percentage of uninsured motorists within each county, the number or percentage of low income population in each county, the availability of affordable insurance options in the voluntary market, and affirmation of the need and desirability of the program expressed by consumers at the public meetings in each county, the commissioner made a final determination that need exists for the program in these counties. The commissioner announced his final determination of need for the program in Monterey, Sonoma, Santa Barbara and Ventura counties on October 16, 2006 and for Tulare and Merced counties on February 8, 2007, as required by the legislation.

The low cost automobile insurance program was established within the California Automobile Assigned Risk Plan and follows CAARP procedures where appropriate and not inconsistent with the low cost automobile insurance statutes. Under the assigned risk plan, applicants for insurance are randomly assigned to a licensed automobile insurer and that insurer issues and

services the policy in accordance with the Plan. Customarily, CAARP and low cost automobile insurance program rates are uniform so that the consumer pays the same rate irrespective of what company the consumer is assigned.

Because the low cost auto insurance policy is at lower liability limits than basic limits policies in the voluntary market, rates must be independently calculated. Thus, establishing uniform rates for the liability policy and additional coverages requires significant and time-consuming actuarial efforts.

To expedite the program's operation in these six counties, on December 4, 2006, CAARP's Advisory Committee proposed to the Commissioner rates for the liability policy and additional coverages. Subsequently, the Department reviewed CAARP's methodology and determined that the rates proposed by CAARP were adequate and consistent with statutory rate-setting standards. Those rates are the ones proposed for adoption in this emergency regulation.

To establish uniform rates for the liability policy and optional coverages for the additional eight counties, the Plan of Operations must be amended.

JUSTIFICATION FOR ADOPTION AS EMERGENCY REGULATIONS

Following CAARP and the low cost automobile insurance program's statutory rate-setting procedures would delay the availability of an affordable insurance option to low income eligible drivers in the six expansion counties.

Moreover, California Insurance Code Section 11629.79 mandates that the Office of Administrative Law consider the adoption of the regulations to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

The Insurance Commissioner proposes the adoption of this rulemaking action pursuant to the authority vested in him by California Insurance Code Sections 11620, 11624, 11629.7, 11629.72, and 11629.79. The purpose of this rulemaking action is to implement, interpret, and make specific the provisions of Stats. 2005, chapter 435, operative January 1, 2006.

TEXT OF THE PROPOSED REGULATION

The text of the proposed rulemaking is attached.

Dated: February 13, 2007

STEVE POIZNER
Insurance Commissioner

By: _____/s/_____
Mary Ann Shulman
Senior Staff Counsel